

## **REMARKS/ARGUMENTS**

### **Description of Amendments**

Claims 1 and 16 are amended to require that the composition further comprise a 10 to 30 percent based on the total weight of the composition of an adhesion promoter for providing adhesive properties to the composition at temperatures of from 50°C to 100°C, wherein the adhesion promoter comprises at least one of a plasticizer and tackifier. Support for this amendment can be found on page 4, lines 10-14. Claims 1, 15 and 16 are amended to add the further limitation that the composition is such that it can be melted and extruded onto a substrate at a temperature of from about 90°C to about 120°C without curing and can be cured at a temperature of from about 120°C to about 200°C. Support for this amendment can be found on page 14, lines 13-16. Claim 3 is cancelled as the limitation of Claim 3 has been inserted into Claim 1. Claim 17 is amended to replace "palletized" with "pelletized". Support for this amendment can be found on page 13, lines 5-10, which indicates that the process refers to pelletizing the recited composition. Claim 18 is amended to depend from Claim 17 rather than Claim 16. Claim 19 is amended to indicate that in the recited method, the composition is melted at about 90°C to about 120°C and that the composition is cured at a temperature of about 120°C to about 200°C. Support for this amendment can be found on page 14, lines 13-16. New Claims 20-33 are added.

New Claims 20 and 24 are added, which add the further limitation that the tackifier is present in an amount of about 7 to about 21 percent and the plasticizer is present in an amount of about 2 to about 7 percent by weight based on the total weight of the composition. Support for this amendment can be found on page 8, lines 20-25 and 29-31. Claims 21 and 25 are added, which add the limitation that the tackifier is a hydrocarbon resin. Support for this can be found on page 8, lines 19-20. Claims 22 and 26 are added, which add the further limitation that the composition is cured at a temperature of from about 140°C to about 200°C. Support for this can be found on page 14, lines 9-16. Claim 23 is added, which depends from Claim 16 and adds the limitation that the adhesion promoter comprises both a plasticizer and a tackifier. Support for this amendment can be found in the Examples and also, in

Claim 7. Claim 27 is added, which depends from the method of Claim 19 and adds the further limitation that the composition is cured at about 140°C to 200°C. Claim 28 is added, which claims a method of reducing the vibration of vehicle parts comprising extruding the composition according to Claim 1 into the space between the reinforcing structure of the vehicle parts and the outer skin panels of the part and thereafter curing the extruder composition. Support for this can be found on page 1, lines 10-12 and page 4, lines 7-8. New Claim 31 is added, which claims the method of sealing a seam in a vehicle comprising extruding a composition according to Claim 16 along the seam of the vehicle and thereafter curing the composition. Claims 29 and 32 are added, which depend from 28 and 31, respectively, and further define that the composition is extruded at 90°C to about 120°C and is cured at about 120°C to 200°C. Support for this amendment can be found on page 14, lines 13-16. Claims 30 and 33 are added, which depend from Claim 29 and 32, respectively, and indicate and add the requirement that the composition is cured at about 140°C to about 200°C. Support for this can be found on page 14, lines 13-16.

In view of the fact that the claims are clearly supported in the specification, and the Official Action is not a Final Action, entry of the offered amendments is proper. Enclosed is a fee sheet authorizing payment of the additional fees as a result of the added claims. Also, enclosed is the certified copy of the priority document.

#### 35 USC§112 Rejection/Argument

The rejection of Claim 18 under 35 USC§112 is obviated in view of the fact that Claim 18 has been amended to depend from Claim 17 instead of Claim 16. Applicants therefore request that this rejection be withdrawn.

#### 35 USC§103 Rejection

Claims 1-19 are rejected under 35 USC§103(a) as being unpatentable over Great Britain 1,299,480, hereinafter "ICI" in combination with U.S. Patent 3,700,758, hereinafter "Johnson". Applicants traverse this rejection for the reasons stated hereinafter and respectfully requests withdrawal of the rejection.

The references do not disclose a composition comprising free flowing pellets having adhesive properties at a temperature of about 50°C to 100°C, which

composition can be melted and extruded onto a substrate at a temperature of about 90°C to about 120°C without curing and can be cured at a temperature of about 120°C to about 200°C. Further, the references do not teach selecting components to achieve the composition having such properties wherein the composition contains a crosslinkable resin wherein the resin includes one or more of an ethylene-acrylic copolymer, an ethylene-methacrylic acid copolymer or an ethylene-acrylic methacrylic acid terpolymer, a free radical crosslinking initiator having a one hour half life temperature of from about 100°C to about 170°C and from about 10 to 30 percent based on the total weight of the composition of an adhesion promoter which provides adhesive properties to the composition at temperatures of from about 50°C to about 100°C wherein the adhesion promoter is a tackifier, plasticizer or both. The cited references do not teach selecting these recited components. Further, the references do not teach or suggest to any one skilled in the art what components to select to give the properties recited hereinbefore.

The Official Action on page 3 states: "the difference between the claimed invention and the disclosed invention is the physical [sic] form of the adhesive composition, i.e., the reference discloses free flowable powders, while the claimed composition is in a form of free flowable pellets." This is incorrect. The references do not teach the selections recited above. Furthermore, there is a significant difference between the free flowing powders disclosed in the ICI reference and the free flowable pellets claimed in Applicants' invention. The Examiner's attention is directed to the Examples of the ICI reference. In those Examples, the components of the composition were all in powder form and simply mixed in a mixer. Therefore, the composition was a heterogeneous mixture of particles of the various components. Each particle comprises one of the components of the mixture. The Examiner's attention is directed to the Examples of the instant application, in particular, pages 15-18, more particularly, the passage at the bottom of page 18 is instructive, the resulting compositions were free flowing, non-sticky granules. Such granules comprised a homogeneous mixture of all of the components which were extruded from extruders. Furthermore, it is clear that the powders as disclosed in the Examples of ICI would be difficult if not impossible to extrude in a powder form whereas the pellets of the claimed invention are in fact extrudable as shown by the invention.

Thus, the statement in the Official Action which states: “in essence, the difference between the disclosed invention and the claimed invention is that the applicants employ a known reactive hot melt composition that is disclosed to be in a form of powder re-shape in into a form of pellets... It is well established in the courts that a change in size or shape of a [sic] known components is not sufficient to support patentability.” First, of all as pointed out above, the composition is not known because the prior art does not show selection of the particular components as discussed above. And, further, that a mixture of heterogeneous powders is very different than a pellet of a homogeneous composition. Thus, it is not a simple change in shape that is described here, but a change in size, a change in shape and how the materials are able to function.

In ICI, in the Example the composition disclosed is melted at a temperature 140°C. Thus, the disclosed composition does not meet the property requirements of the Applicants’ claimed invention which is that it be capable of melting and extruding at 90°C to 120°C. Thus, the primary references does not disclose to one skilled in the art how to select components to result in a composition which is capable of being formed into pellets having the properties required in Applicants’ claims.

The Official Action states: “furthermore, it is well known in the art to palletize or somehow otherwise compact powdered compositions or reduce to pellets large pieces of plastics to facilitate handling and transportation of the plastic, as for example, evidenced by Johnson expressly disclosing that is textbook known to prepare hot melt adhesives in the form of pellets for easy handling (see background). Thus, extruding powdered composition to obtain pellets would have been obvious to obtain easy to handle composition. It is reasonable believed that upon extruding compositions of ICI into pellets, the resulting pellets are inherently free-flowable since their composition is identical to the composition of the claimed pellets and the initial powder is free flowable. The burden is shifted to the applicants to provide factual evidence to the contrary.” First, no case of *prima facie* obviousness is made out, therefore no burden is shifted to the Applicants and the Patent Office still bears the burden of establishing a case of *prima facie* obviousness. Secondly, the composition of ICI is not identical to the composition of the claimed pellets for the reasons stated

hereinbefore. ICI does not disclose selection of the particular chemicals to form a composition which is capable of achieving the properties required in the claimed composition. There is no disclosure in Johnson that shows forming pellets out of powders. Furthermore, there is no disclosure of creating a composition which is extrudable at 90°C to about 120°C, which composition at such temperatures does not cure. In Johnson it is disclosed at col. 1, lines 18-20 "prior to heating, the hot melt adhesives are 100 percent solids that can be prepared in bulk or pellet form for use in handling." The Examples illustrate that the compositions disclosed in Johnson actually are heated to 180°C to form the pellets. Heating of the claimed compositions to 180°C would result in curing. Thus, one skilled in the art would not be motivated by the teachings of Johnson to make a reactive hot melt composition in the form of pellets which is capable of being extruded and not cured at 90°C to 120°C. Therefore, Johnson provides no motivation to modify any of the teachings of the primary reference. Johnson clearly does not disclose or suggest the selections necessary to teach the composition having the required properties. Thus, the combination of the references does not teach selections to get to Applicants' claimed composition or provide any teaching or suggestion how to make a composition which has the required properties.

The cited references do not disclose compositions which further comprise an adhesion promoter of tackifier and plasticizer as claimed in Claims 7 and 21. The references do not teach or suggest the relative amounts of plasticizer and tackifier to use as required in Claims 20 and 23. The references do not teach or suggest selection of hydrocarbon resin tackifiers for use in the recited composition or claimed composition as required by Claims 21 and 25. In fact the teachings of Johnson would teach away from this, because the teaching of Johnson discloses a hydrocarbon tackifier, but that hydrocarbon tackifier has a melting point well above 120°C and would not result in a composition having the required properties of Applicants' claimed composition. Nor, do the references teach a composition which cures at a temperature of about 140°C to about 200°C as required by Claims 22 and 26.

Furthermore, the references do not teach a method of reducing vibration of the vehicle by extruding a composition according to Claim 21 between

the reinforcing structure of the vehicle part and outer skin panels of the part and thereafter curing the extruder composition. Nor, do the references disclose a method of sealing a seam in the vehicle comprising extruding the composition according to Claim 16 along the seam in the vehicle and thereafter curing the composition. In view of the fact that the references fail to teach a significant number of the compositional features and fail how to teach to make and use the recited composition, no case of *prima facie* obviousness is made out and this rejection must be withdrawn.

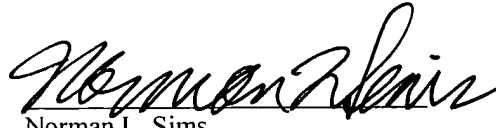
Claims 1-19 are rejected under 35 USC§103(a) as being unpatentable over U.S. Patent 4,480,054 to Enderle, hereinafter "Enderle" in combination with ICI and further view of Johnson. Applicants traverse this rejection for the reasons stated hereinafter and respectfully request withdrawal of the rejection.

First, based on the structure of the rejection, Applicants understand that the rejection cites Enderle as the primary reference. First, Enderle relates to foamable polymer blend compositions. It states in column 1, lines 10-15: this invention relates to compatible foamable polymer blend compositions which can be formed into closed-cell foamed articles combining low density with excellent physical properties, especially stiffness, split tear, and tensile strengths." The reference does not disclose the composition in the form of pellets nor does it disclose the composition which has adhesive properties. The reference does not disclose the composition containing an adhesion promoter and it requires the presence of an elastomer. In view of the fact, first, that the reference does not disclose the composition containing all of the required elements found in Applicants' claims, the composition claimed in Applicants' claims is novel in view of the teachings of Enderle. Furthermore, Enderle relates to the composition prepared for a different purpose used in a different way. The composition disclosed in Enderle is prepared by blending the components together to create a heterogeneous mixture of the blended components. See col. 3, line 58 to col. 4, line 4. It is further disclosed that the blend is then placed into a compression mold to contain the product in the mold. In the mold, the composition undergoes curing and will expand when released from the mold. Thus, at no point does this composition form a homogeneous, pelletized composition nor does it have adhesive properties. Furthermore, one skilled in the art would not combine the teachings of Enderle with the teachings of Johnson and ICI. ICI and Johnson disclose hot melt

adhesive compositions. Enderle discloses a foamable, polymer blend, which is not an adhesive composition. In view of the fact that the compositions disclosed in Enderle and ICI have different components, different uses and different properties, one skilled in the art would not read the teachings of the references together. Even if the three references could properly be read together, the three references do not disclose the particular selections necessary to make a composition with the properties of Applicants' claimed composition as discussed hereinbefore. Therefore, no case of *prima facie* obviousness is made out and this rejection must be withdrawn.

Applicants hereby assert that Claims 1-2 and 4-33 are patentable under 35 USC§103 and respectfully requests withdrawal of the rejection.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Norman L. Sims", written over a horizontal line.

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